

FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: October 12, 2017

Agenda Item: Little Belt Creek Instream Flow Water Right Lease (R4)

Division: Fisheries

Action Needed: Endorsement

Time Needed on Agenda for this Presentation: 5 Min

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Background.

Little Belt Creek flowing from the Highwood Mountains near Belt supports a rainbow and brook trout fishery. In the past, dewatering due to irrigation diversion of water has limited the extent of the fishery with dewatering occurring above and through on legally accessible state-owned land. Restoring and protecting streamflow through this historically dewatered reach would likely benefit the fishery as well as increase angling opportunities.

The owner of the most senior irrigation water rights on Little Belt Creek has expressed interest in leasing waters to FWP to benefit the fishery. FWP has statutory authority to temporarily change leased water rights to instream flow.

Public Involvement Process & Results.

To change the lessors water rights to instream flow, FWP must make an application to DNRC. This application would be noticed to the public, and potentially affected parties would have the opportunity to object to the change to instream flow. DNRC will also conduct an environmental review.

Alternatives and Analysis.

The No Action alternative would be for FWP to not lease the water rights and not change them to instream flow, whereby this opportunity for improvement to instream flow in Little Belt Creek would be forgone. Another alternative would be for the water user to temporarily change the water right to instream flow without the involvement of FWP. This alternative would require the lessors to incur the legal and technical cost of pursuing the change to instream flow, for which they have limited incentive. It is unlikely the water user would pursue changes to instream flow for the benefit of the public fishery without FWP involvement.

Agency Recommendation & Rationale

FWP recommends that the Commission direct FWP Staff to negotiate a water-right lease agreement to restore and protect instream flow levels in Little Belt Creek.

Proposed Motion

I move that the Fish and Wildlife Commission authorize FWP staff to negotiate a water-right lease agreement for irrigation water rights from Little Belt Creek to restore and protect instream flow water levels, subject to final approval by the Commission.